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7
8 **BEFORE THE**
9 **BOARD OF ACCOUNTANCY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation) Case No. AC-97-9
12 Against:)
13) DEFAULT DECISION AND
14) ORDER OF THE BOARD
15) [Gov. Code § 11520]
16)
17)
18)
19)
20)
21)
22)
23)
24)
25)
26)
27)
Respondent.

18 STATUTES

19 1. California Government Code section 11506 provides,
20 in pertinent part:

21 "(b) The respondent shall be entitled to a hearing on
22 the merits if he files a notice of defense, and any such
23 notice shall be deemed a specific denial of all parts of the
24 accusation not expressly admitted. Failure to file such
25 notice shall constitute a waiver of respondent's right to a
26 hearing, but the agency in its discretion may nevertheless
27 grant a hearing. ..."

1 2. California Government Code section 11520 provides,
2 in pertinent part:

3 "(a) If the respondent fails to file a notice of
4 defense or to appear at the hearing, the agency may take
5 action based upon the respondent's express admissions of
6 upon other evidence and affidavits may be used as evidence
7 without any notice to respondent;..."

8 3. The Board of Accountancy, Department of Consumer
9 Affairs ("Board"), is authorized to revoke respondent's Certified
10 Public Accountant License pursuant to section 5100 of the
11 California Business and Professions Code ("Code"), which, at all
12 times material herein, has provided in pertinent part that "the
13 Board may revoke, suspend or refuse to renew any permit or
14 certificate" issued by the Board for unprofessional conduct,
15 including but not limited to the willful violation of the
16 Accountancy Act or any rule or regulation promulgated by the
17 Board [sec. 5100(f)].

18 4. Code section 125.9 permits the Board to establish,
19 by regulation, a system for the issuance to a licensee of a
20 citation which may contain an order of abatement or an order to
21 pay an administrative fine where the licensee is in violation of
22 the licensing act or any regulation adopted pursuant thereto.
23 Subdivision 125.9(b)(5) provides in part that the failure of a
24 licensee to pay a fine within 30 days of the date of assessment,
25 unless the citation is being appealed, may result in disciplinary
26 action being taken by the Board.

27 5. The Board's regulations, adopted pursuant to its

1 rulemaking authority and Code section 125.9, and codified in
2 Title 16 of the California Code of Regulations, provide, in
3 section 95^{1/} et seq., for the issuance of citations by the
4 Executive Officer of the Board. Board Rule 95.4 provides in
5 pertinent part as follows:

6 "When an order of abatement is not contested... failure
7 to abate the violation charges within the time specified in
8 the citation shall constitute a violation and failure to
9 comply with the order of abatement... Such failure shall
10 constitute a ground for revocation or suspension of the
11 license or permit."

12 6. Code section 118 provides, in pertinent part:

13 "(b) The suspension, expiration, or forfeiture by
14 operation of law of a license issued by a board in the
15 department, or its suspension, forfeiture, or cancellation
16 by order of the board or by order of a court of law, or its
17 surrender without the written consent of the board, shall
18 not, during any period in which it may be renewed, restored,
19 reissued, or reinstated, deprive the board of its authority
20 to institute or continue a disciplinary proceeding against
21 the licensee upon any ground provided by law or to enter an
22 order suspending or revoking the license or otherwise taking
23 disciplinary action against the license on any such ground."

24 Code section 5070.6 provides, in part, that an expired
25 license may be renewed, upon compliance with applicable

26 1. The Board's regulations are codified, e.g., at 16
27 C.C.R., section 95, and are referred herein as Board Rules, e.g.,
Board Rule 95.

1 requirements, at any time within five years after its expiration.

2 FINDINGS OF FACT

3 7. On June 8, 1984, the Board issued Certificate
4 Number CPA 40593 (Certified Public Accountant) (The
5 "Certificate") to Gail Lorene Wegner ("Respondent"). The
6 Certificate expired on January 1, 1991, for the following
7 reasons:

8 (a) The renewal fee, required by the Business and
9 Professions Code Section 5070.5, was not paid:

10 (b) Evidence of compliance with continuing education
11 regulations was not submitted.

12 The Certificate was expired during the period January 1, 1991
13 through February 3, 1991. The Certificate was renewed effective
14 on February 4, 1991 through December 31, 1992, upon receipt of
15 the renewal fee and compliance with the continuing education
16 regulations from Respondent. The Certificate expired on January
17 1, 1993, for the following reasons:

18 (a) The renewal fee, required by the Business and
19 Professions Code Section 5070.5, was not paid:

20 (b) Evidence of compliance with continuing education
21 regulations was not submitted.

22 The Certificate was expired during the period January 1, 1993
23 through January 28, 1996. The Certificate was renewed effective
24 January 29, 1996 through December 31, 1996, upon receipt of the
25 renewal fee. Respondent certified having complied with the
26 continuing education requirements, however, documentation of
27 completion has not been provided by the Respondent. The

1 Certificate is not currently in force and effect and expired on
2 December 31, 1996.

3 8. Pursuant to its authority under Government Code
4 section 11520, and based on the evidence before it, the Board
5 finds that the following allegations contained in Accusation No.
6 AC-97-9 are true:

7 (a) On or about February 15, 1996, Citation No. CT-96-
8 8 was issued to Respondent.

9 (b) The Citation contained four alleged violations,
10 set forth orders of abatement and correction, imposed
11 administrative fines totaling \$2,500, and established March 15,
12 1996, as the date on which, **unless contested**, the Citation was to
13 become a final order of the Board.

14 (c) On or about February 15, 1996, copies of the
15 Citation, Statement to Cited Person, Notice of Appeal, and
16 relevant Government Code Sections (the "citation package") were
17 served, by both Certified Mail and First Class Mail, by Alice
18 Delvey-Williams, an employee of the Board, on Respondent at her
19 address of record with the Board, which address was and is 5001
20 Airport Plaza Drive #254, Long Beach, California 90815.

21 (d) On or about March 11, 1996, the green Domestic
22 Return Receipt and the package sent by Certified Mail were
23 returned to the Board by the USPS as "unclaimed." The above-
24 described service was effective as a matter of law pursuant to
25 the provisions of California Government Code Section 11505,
26 subdivision(c) and under Code Section 124.

27 (e) Respondent has failed to comply with the Citation,

1 by failing to comply with the order of abatement and correction
2 and the order to pay administrative fines and, as a result,
3 Respondent's certificate is subject to discipline for
4 unprofessional conduct in violation of Section 95.4, in
5 conjunction with Code Section 5100(f).

6 9. On or About September 9, 1997, Complainant Carol
7 B. Sigmann, in her official capacity as Executive Officer of the
8 Board, filed Accusation No. AC-97-9 against Respondent. A copy
9 of the Accusation is attached hereto as Exhibit A and
10 incorporated herein.

11 10. On or about September 26, 1997, Carolyn Villareal,
12 an employee of the Office of the Attorney General, sent by First
13 Class Mail a copy of Accusation No. AC-97-9, Statement to
14 Respondent, Government Code sections 11507.5, 11507.6 and
15 11507.7, the Notice of Defense form, and a request for Discovery,
16 ("Accusation package") to Respondent's address of record with the
17 Board which was and is 5001 Airport Plaza Drive #254, Long Beach,
18 California 90815. On or about September 28, 1997, the accusation
19 package was returned by the U.S. Postal Service. The envelope
20 was marked, "Forward Time Expired, Return to Sender".

21 11. On or about October 14, 1997, Carolyn Villareal,
22 an employee of the Office of the Attorney General, sent by
23 certified mail and first class mail a copy of the Accusation
24 package to Respondent, addressed to Respondent at 4431 East
25 Village Road, Long Beach, California 90808-1538.

26 12. Respondent failed to file a Notice of Defense
27 within 15 days after service upon her of the Accusation, and,

1 therefore, waived her right to a hearing on the merits of
2 Accusation No. AC-97-9.

3 **DETERMINATION OF ISSUES**

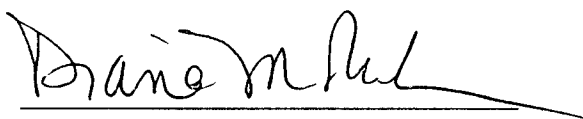
4 1. Service of the Accusation was effective as a
5 matter of law pursuant to the provisions of California Government
6 Code section 11505, subdivision (c) and Code section 124.

7 2. Respondent's certificate is subject to discipline
8 for unprofessional conduct in violation of Board Rule 95 *et seq.*
9 in conjunction with Code section 5100(f), by reason of the
10 Findings of Fact number 8 above, and cause for revocation has
11 been established based upon this Finding of Fact.

12 **ORDER OF THE BOARD OF ACCOUNTANCY**

13 Certified Public Accountant License number CPA 40593,
14 heretofore issued to Respondent Gail Lorene Wegner, is hereby
15 revoked. An effective date of May 1, 1998, has been
16 assigned to this order.

17 Made this 1st day of April., 1998.

18 

19 Diane M. Rubin
20 Board President
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23
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25

1 DANIEL E. LUNGREN, Attorney General
of the State of California
2 SHARON F. DERKUM, R.N.,
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3 Department of Justice
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7 **BEFORE THE**
8 **BOARD OF ACCOUNTANCY**
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation) NO. AC-97-9
Against:)
11)
GAIL LORENE WEGNER, C.P.A.,) ACCUSATION
12 5001 Airport Plaza Drive)
Suite 254)
13 Long Beach, CA 90815)
CPA Certificate No. 40593)
14 Respondent.)
15)
16

17 Complainant Carol Sigmann, as cause for disciplinary
18 action, alleges:

19 **PARTIES**

20 1. Complainant is the Executive Officer of the Board
21 of Accountancy of the State of California ("Board") and makes and
22 files this accusation solely in her official capacity.

23 **LICENSE INFORMATION**

24 2. On or about June 8, 1984, Certified Public
25 Accountant Certificate No. 40593 was issued to Gail Lorene
26 Wegner. Said certificate expired on January 1, 1991, for the
27 following reasons:

1 a) The renewal fee, required by the Business and
2 Professions Code Section 5070.5, was not paid;

3 b) Evidence of compliance with continuing
4 education regulations was not submitted.

5 Said certificate No. CPA 40593 was expired and not valid during
6 the period January 1, 1991 through February 3, 1991. Said
7 certificate No. CPA 40593 was renewed effective on February 4,
8 1991, through December 31, 1992, upon receipt of the renewal fee
9 and compliance with the continuing education regulations from
10 respondent. Said certificate No. CPA 40593 expired on January 1,
11 1993, for the following reasons:

12 a) The renewal fee, required by the Business and
13 Professions Code Section 5070.5, was not paid;

14 b) Evidence of compliance with continuing
15 education regulations was not submitted.

16 Said certificate No. CPA 40593 was expired and was not valid
17 during the period January 1, 1993, through January 28, 1996.

18 Said certificate No. CPA 40593 was renewed effective January 29,
19 1996 through December 31, 1996, upon receipt of the renewal fee.

20 Respondent certified having complied with the continuing
21 education requirements however, documentation of completion has
22 not been provided by the respondent. Said certificate CPA 40593
23 is not currently in force and effect and expired on December 31,
24 1996.

25 STATUTES AND REGULATIONS

26 3. At all times material herein, Section 5100 of the
27 Business and Professions Code (hereinafter "Code") has provided

1 in pertinent part that "After notice and hearing, the Board may
2 revoke, suspend or refuse to renew any permit or certificate
3 issued by the Board for **unprofessional conduct**, including, but
4 not limited to the willful violation of the Accountancy Act or
5 any rule or regulation promulgated by the Board [Sec. 5100(f)].

6 4. Code Section 125.9 permits the Board to establish
7 by regulation, a system for the issuance to a licensee of a
8 citation which may contain an order of abatement or an order to
9 pay an administrative fine where the licensee is in violation of
10 the licensing act or any regulation adopted pursuant thereto.
11 Code Section 125.9(b)(5) provides in part that the failure of a
12 licensee to pay a fine within 30 days of the date of assessment,
13 unless the citation is being appealed, may result in disciplinary
14 action being taken by the Board.

15 5. The Board's regulations, adopted pursuant to its
16 rule making authority and Code Section 125.9, and codified in
17 Title 16 of the California Code of Regulations, provide in
18 Section 95, et seq., for the issuance of citations by the
19 Executive Officer of the Board. Section 95.4 provides in
20 pertinent part as follows: "The failure of a licensee to comply
21 with a citation containing an assessment of administrative fine,
22 an order of correction or abatement or both an administrative
23 fine and an order of correction or abatement after this citation
24 is final . . . shall constitute a ground for revocation or
25 suspension of the license or permit."

26 6. Under Code Section 118(b), the suspension,
27 expiration, or forfeiture by operation of law of a license issued

1 by the Board, or its suspension, forfeiture, or cancellation by
2 order of the Board or by order of a court of law, or its
3 surrender without the written consent of the Board, shall not,
4 during any period in which it may be renewed, restored, reissued,
5 or reinstated, deprive the Board of its authority to institute or
6 continue a disciplinary proceeding against the licensee upon any
7 ground provided by law or to enter an order suspending or
8 revoking the license or otherwise taking disciplinary action
9 against the license on any such ground. Code Section 5070.6
10 provides, in part, that any expired licensed may be renewed, upon
11 compliance with applicable requirements, at any time within five
12 years after its expiration.

13 7. Respondent Gail Lorene Wegner is subject to
14 disciplinary action because she failed to comply with Board
15 Citation No. CT-96-8 which has become a final order of the Board.
16 A True and Correct copy of Citation No. CT-96-8 is attached
17 hereto as Exhibit "A" and includes herein by reference as fully
18 set forth. The circumstances are as follows:

19 a. On or about February 15, 1996, Citation No. CT-96-
20 8 was issued to Gail Lorene Wegner. The Citation contained four
21 alleged violations, set forth orders of abatement and correction,
22 imposed administrative fines totaling \$2,500, and established
23 March 15, 1996, as the date on which, unless contested, the
24 Citation was to become a final order of the Board.

25 b. On or about February 15, 1996, copies of the
26 Citation, Statement to Cited Person, Notice of Appeal, and
27 relevant Government Code Sections (the "citation package") were

served, by both Certified Mail and First Class Mail, by Alice Delvey-Williams, an employee of the Board, on Respondent at her address of record with the Board, which address was and is 5001 Airport Plaza Drive #254, Long Beach, California 90815. On or about March 11, 1996, the green Domestic Return Receipt and the package sent by Certified Mail were returned to the Board by the USPS as "Unclaimed." The above-described service was effective as a matter of law pursuant to the provisions of California Government Code Section 11505, subdivision (c) and under Code Section 124.

8. Respondent has failed to comply with the Citation, by failing to comply with the orders of abatement and correction and the order to pay administrative fines and, as a result, Respondent's certificate is subject to discipline for unprofessional conduct in violation of Section 95.4, in conjunction with Code Section 5100(f).

PRAYER

WHEREFORE, complainant requests that the Board hold a hearing on the matters alleged herein, and that following said hearing, the Board issue a decision:

1. Revoking or suspending Certified Public Accountant Certificate Number 40593, heretofore issued to respondent Gail Lorene Wegner CPA;

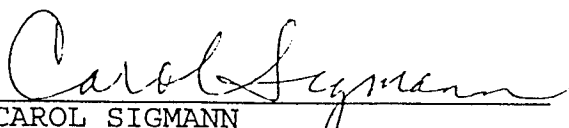
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2. Taking such other and further action as the Board
deems proper.

DATED: September 9, 1997



CAROL SIGMANN
Executive Officer
Board of Accountancy
Department of Consumer Affairs
State of California

Complainant

SFD:cv

03541110-LA96AD1546



BOARD OF ACCOUNTANCY
2000 EVERGREEN STREET, SUITE 250
SACRAMENTO, CA 95815-3862
(916) 263-3680



Gail Lorene Wegner
5001 Airport Plaza Drive #254
Long Beach, CA 90815

Citation No. CT-96-8
License No. CPA 40593

An investigation has been conducted by the California Board of Accountancy. This citation is hereby issued to you pursuant to the Board of Accountancy's authority under Sections 125.9 and 5100 of the Business and Professions Code and Rule 95 - 95.6 of Title 16, Chapter 1 of the California Code of Regulations (hereinafter "Board Rules") for the violation(s) which were found during the investigation.

This citation details each violation charged and orders of correction where applicable. IT IS YOUR RESPONSIBILITY TO READ THE ENTIRE CITATION.

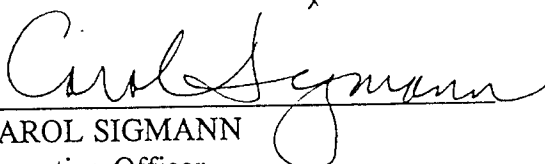
Unless contested, this citation shall become a final order of the Board on March 15, 1996, the correction(s) are due on or before April 15, 1996, and the administrative fine totaling \$2500.00 is due on or before April 15, 1996.

Payment of the administrative fine should be made payable to the State Board of Accountancy by cashier's check or money order. Please include the citation number on the payment.

Please include the citation number on all correspondence.

FAILURE TO RESPOND TO THIS CITATION WILL RESULT IN FURTHER DISCIPLINARY ACTION AGAINST YOUR LICENSE.

February 15, 1996
Date


CAROL SIGMANN
Executive Officer
STATE BOARD OF ACCOUNTANCY

CS:sns:ja

Item No. 1

**Section(s)
Violated:**

Business and Professions Code, Division 3, Chapter 1, Article 3, Section 5050:

"No person shall engage in the practice of public accountancy in this State unless such person is the holder of a valid permit to practice public accountancy issued by the board; provided, however, that nothing in this chapter shall prohibit a certified public accountant or a public accountant of another state, or any accountant of a foreign country lawfully practicing therein, from temporarily practicing in this State on professional business incident to his regular practice in another state or country."

**Description
of Violation:**

During the period from January 1, 1993, to January 23, 1996, Gail Lorene Wegner has practiced public accountancy without a valid permit in violation of Business and Professions Code Section 5050.

**Order of
Abatement:**

Pay the administrative fine as set forth in the citation.

**Order of
Correction:**

Not applicable

**Time to
Correct:**

Not applicable

**Administrative
Fine:**

\$1000.00

Item No. 2

**Section(s)
Violated:**

Business and Professions Code, Division 3, Chapter 1, Article 3, Section 5055:

"Any person who has received from the board a certificate of certified public accountant and holds a valid permit to practice under the provisions of this chapter shall be styled and known as a "certified public accountant" and may also use the abbreviation "C.P.A." No other person, except a partnership registered under Sections 5072 and 5073, shall assume or use that title, designation, or abbreviation or any other title, designation, sign, card or device tending to indicate that the person using it is a certified public accountant."

**Description
of Violation:**

During the period from January 1, 1993, to January 23, 1996, Gail Lorene Wegner has represented herself as a Certified Public Accountant without a valid permit in violation of Business and Professions Code Section 5055.

**Order of
Abatement:**

Pay the administrative fine as set forth in the citation.

**Order of
Correction:**

Not applicable

**Time to
Correct:**

Not applicable

**Administrative
Fine:**

\$1000.00

Item No. 3

**Section(s)
Violated:**

California Code of Regulations, Title 16, Division 1. **STATE
BOARD OF ACCOUNTANCY ARTICLE 9, SECTION 66:**

Board Rule 66 states, "A certified public accountant or a public accountant in practice as an individual shall not use a firm name which includes plural terms such as "and Company" or "and Associates," unless he or she maintains a full-time professional staff consisting of a licensee or an employee or assistant as described in Section 5053 of the Accountancy Act. An individual practitioner shall not use the plural designations "Certified Public Accountants" or "Public Accountants."

**Description
of Violation:**

During the period from at least January 1989 to present, Gail Lorene Wegner has represented her practice as "Rose & Wegner, Certified Public Accountants" without maintaining a full-time professional staff in violation of Rule 66.

**Order of
Abatement:**

Pay the administrative fine as set forth in the citation.

**Order of
Correction:**

Discontinue practicing under the name of "Rose & Wegner, Certified Public Accountants" until properly registered with the Board of Accountancy.

**Time to
Correct:**

Immediately.

**Administrative
Fine:**

\$250.00

Item No. 4

**Section(s)
Violated:**

California Code of Regulations, Title 16, Division 1.
**STATE BOARD OF ACCOUNTANCY ARTICLE 9,
SECTION 67:**

Board Rule 67 states, "No permit holder shall practice as a principal under a name other than his or her own name until such name has been registered with the board and approved by the board as not being false or misleading."

**Description
of Violation:**

During the period from at least January 1989 to present, Gail Lorene Wegner has represented herself as "Rose & Wegner, Certified Public Accountants" without requesting or securing Board approval to use a fictitious name in violation of Board Rule 67.

**Order of
Abatement:**

Pay the administrative fine as set forth in the citation.

Discontinue practicing under the name of "Rose & Wegner, Certified Public Accountants" until the namestyle is properly registered with the Board of Accountancy.

**Order of
Correction:**

Complete and return the enclosed fictitious name application for registration of the name "Rose & Wegner, Certified Public Accountant(s)."

**Time to
Correct:**

60 days.

**Administrative
Fine:**

\$250.00